

History of Arizona Trial Court Records Retention Schedules

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Overview of Presentation

- ▶ Further background on origins of the Arizona trial court records retention schedules.
 - ▶ Rule 29, Rules of the Supreme Court
 - ▶ Mandatory vs. permissive concept
- ▶ Not a review of the Court of Appeals or Supreme Court records retention schedules.
- ▶ Brief consideration of federal court and Colorado Judiciary records retention schedules.



Rule 29, Rules of the Supreme Court

- ▶ Added as a new rule in 1991.
- ▶ Provides: (A) The Supreme Court *shall* adopt . . . retention and disposition schedules identifying the length of time court records must be kept prior to destruction and purge lists identifying documents to be removed from case files before storage or replication.
- ▶ Covers records – both case and administrative – at all levels of court (Appellate, Superior, Justice of the Peace, and Municipal) generally.



Rule 29, Rules of the Supreme Court

- ▶ Seems to indicate the records schedules should be *permissive*.
- ▶ Provides at (C) The Superior Court records *shall* be maintained and *may* be destroyed ...



Background of Rule 29

- ▶ The rule petition requesting new Rule 29 was filed in 1990.
- ▶ The reasons set forth in the petition for requesting the new rule were that the rule was:
 - ▶ Necessary to implement legislation, eff. Sept. 27, 1990, requiring that the maintenance and destruction of court records be governed by court rule.
 - ▶ Needed to reduce the volume of documents now stored by the courts. *Superior Courts are experiencing serious records storage problems*
- ▶ The petition does not mention whether the records schedules should be *permissive* or *mandatory*.



Background of Rule 29

- ▶ Legislation, eff. Sept. 27, 1990 (SBI 190)
 - ▶ Original purpose: To provide clarification for the process for transmitting and depositing money into the judicial collection enhancement fund (JCEF).
- ▶ Amendments to the bill:
 - ▶ Provided for the destruction of documents pursuant to supreme court rules.
 - ▶ Directed the clerk to notify the director of Library & Archives of the records designated for destruction to allow the director to retain them.
- ▶ The testimony did not address whether the records schedules should be permissive or mandatory.



Limited Jurisdiction Court Records Schedule

- ▶ **Background of LJC Records Schedule**
 - ▶ 1991 – Original schedule developed
 - ▶ 2006 – The schedule was completely updated and placed in ACJA § 4-302
 - ▶ 2007 & 2008 – Minor revisions to the schedule to incorporate statutory changes



Limited Jurisdiction Court Records Schedule

- ▶ **Additional detail on 2006 revisions**
 - ▶ A subcommittee of the LJC Committee was established in 2005.
 - ▶ The workgroup consisted of representatives from Phoenix Municipal Ct., Mesa Municipal Ct., Scottsdale City Ct., Tucson City Ct., and LJC's in Cochise County & Maricopa County.
 - ▶ The workgroup met throughout 2005 & 2006.



Limited Jurisdiction Court Records Schedule

- ▶ Revised schedule was presented for comment to presiding justices of the peace, presiding municipal court judges, LJC Court Administrators, Superior Court Clerks, the State Bar of Arizona, the LJC Committee, the Committee on Superior Court, and the AJC.
- ▶ Adopted by AO, effective Nov. 1, 2006.



General Jurisdiction Court Records Schedule

▶ Background of GJC Records Schedule

- ▶ 1991 – Original schedule developed
- ▶ 2006 – The schedule was completely updated and placed in ACJA § 3-402



General Jurisdiction Court Records Schedule

- ▶ **Additional detail on 2006 Revisions**
 - ▶ Revisions were initiated in 2003; 3-yr. project.
 - ▶ Significant issues included the retention period for court reporter notes in capital cases and establishment of the process of designating a case as historically significant or landmark.



General Jurisdiction Court Records Schedule

- ▶ Revised schedule was presented for comment to the AZ Clerks Assoc., Board of Certified Ct. Rptrs., AZ Ct. Rptrs. Assoc., Committee on Probation, Maricopa County Probation Dept., Maricopa & Pima County Atty's Offcs., Jury Managers and Jury Commissioners, AZ Assoc. of Superior Ct. Administrators, State Bar of AZ, Presiding Judges, COSC, AJC.
- ▶ Adopted by AO, effective March 21, 2006.



Provisions Unique to GJC Records Schedule

- ▶ Establishes purge lists.
- ▶ Includes a requirement to transfer records to Arizona State Library, Archives and Public Records after the retention period has been met.
- ▶ Establishes a process for designating and archiving a case as historically significant or landmark.



Brief Comparison of LJC & GJC Records Schedules

Limited Jurisdiction R.R.S.

Record	Retention Period
Parking Violations	6 mo. after final adjudication & satisfaction of sanctions
Speeding	1 yr. after final adjudication & satisfaction of sanctions
DUI	7 yrs. after final adjudication & completion of sentence

General Jurisdiction RRS

Record	Retention Period
Divorce with Children	75 yrs. after filed
Felony	50 yrs. after filed
Probate	100 yrs. after filed

Miscellaneous Additional Issues

▶ Federal Judiciary Retention Schedules

- ▶ A copy of the schedule for the U.S. District Courts, etc. is provided as a handout.
- ▶ The federal records retention and destruction schedules are mandatory for paper records, but no federal mandate has been established for destruction of electronic case records.
- ▶ Enforcement?
- ▶ The federal AOC intends to draft a schedule for electronic case records at a later date.



Miscellaneous Additional Issues

▶ Colorado Retention Schedule

- ▶ Copy of the Colorado schedule provided as a handout.
- ▶ Records from Case Management System (p. 1 of handout):
Maintain permanent but archive. Keep cases with activity in last 5 years active; cases 5 – 10 years with no activity archive locally; cases 10 or more years with no activity archive.



Questions or Discussion?

